

ACTS, 1970. Chap. 395

AS AMENDED BY ACTS; 1972, CHAP. 708;
1984, CHAP. 300; 1985, CHAP. 291;
1987, CHAP. 735; 1989, CHAP. 333;
1990, CHAP. 314

AN ACT ESTABLISHING AN HISTORIC DISTRICT COMMISSION
FOR THE TOWN OF NANTUCKET AND ESTABLISHING
NANTUCKET ISLAND AS THE HISTORIC DISTRICT

Be it enacted, etc., as follows:

SECTION 1. Chapter 601 of the Acts of 1955 is hereby repealed and the Historic Districts Commission is hereby abolished.

SECTION 2. The purpose of this Act is to promote the general welfare of the inhabitants of the Town of Nantucket through the preservation and protection of historic buildings, places and districts of historic interest through the development of an appropriate setting for these buildings, places and districts and through the benefits resulting to the economy of Nantucket in developing and maintaining its vacation-travel industry through the promotion of these historic associations.

SECTION 2A. For purposes of this Act, the following words shall have the following meanings:

"Altered" shall include the words rebuilt, reconstructed, rehabilitated, remodeled, renovated and restored.

"Building," a combination of materials forming a shelter for persons, animals or property.

"Commission," the Nantucket Historic District Commission, acting as the Historic District Commission.

"Constructed" shall include the words built, erected, installed, enlarged, and moved.

"Exterior architectural features," such portions of the exterior of a building or structure as are open to view from a beach, a public way, a traveled way, a street or way shown on a land court plan or shown on a plan recorded in the Registry of Deeds, a proprietor's road, a street or way shown on a plan approved and endorsed in accordance with the Subdivision Control Law, a public park or a public body of water, and shall include but not be limited to the architectural style and general arrangement and setting thereof; the kind, color and texture of exterior building materials; the color of paint or other materials applied to windows, doors, lights, signs, trim, gutters, leaders, louvers, vents, exterior surfaces and the type and style of roofs, porches,

decks, staircases, steps, balconies, roof walks and other appurtenant exterior fixtures.

"Razed," includes the words destroyed, demolished and removed.

"Structure," a combination of materials, other than a building, including but not limited to a sign, fence, wall, terrace, walk or driveway.

SECTION 3. There is hereby established in the Town of Nantucket an Historic District Commission consisting of five (5) unpaid members who shall be resident taxpayers of the Town of Nantucket, to be appointed by the Selectmen. The Historic District Commission shall have the powers and authority and perform all the duties as hereinafter enumerated and provided. The original appointment of the members of the Historic District Commission shall be one (1) for one (1) year, one (1) for two (2) years, one (1) for three (3) years, one (1) for four (4) years and one (1) for (5) years, from March the first following the year of such appointment or until their successor is elected, and thereafter upon the expiration of term of office, shall be filled by appointment by the Selectmen, but such appointment shall be only for the unexpired portion of the term of the member replaced.

The chairman of the Historic District Commission may designate as associate member to sit on the commission in case of absence, inability to act or conflict of interest on the part of any member thereof or in the event of a vacancy on the commission until said vacancy is filled in the manner provided herein. Two such associate members shall be elected at the annual town meeting for terms of such length and so arranged that the terms of an associate member shall expire each year. An associate vacancy occurring other by expiration of the term shall be filled for the unexpired term by election at the annual town meeting. During the period between April, nineteen hundred and eighty-nine and the next town meeting two associate members shall be designated by election at the annual town meeting.

SECTION 4. There is hereby established in the Town of Nantucket an Historic Nantucket District, which shall include the land and waters comprising the Town of Nantucket.

SECTION 5. (a) No building or structure shall be constructed or altered within the Nantucket Historic District in any way that affects its exterior architectural features unless and until either:

(1) An application for a building permit shall first have been approved as to exterior architectural features, which approval shall be evidenced by a certificate of appropriateness issued by the Commission; or

(2) The Commission first issues a certificate of nonapplicability with respect to such alteration of construction.

(b) No building permit for construction or alteration of a building or structure within the Historic Nantucket District shall be issued by the Building Inspector until and unless the applicant has first obtained the applicable certificate from the Commission. No occupancy permit shall be issued by the Building Inspector with respect to any building or structure in the Nantucket Historic District unless and until the Building Inspector receives a written certification from the Historic District Commission that:

(1) The building of structure has been constructed or altered in compliance with the terms of the certificate of appropriateness issued therefor, or

(2) A certificate of nonapplicability has been issued for the construction or alteration.

(c) Nothing in this Act shall be construed to prevent the ordinary maintenance, repair or replacement of any exterior architectural feature within the Nantucket Historic District which does not involve a change in design, material, color or the outward appearance thereof; nor to prevent the meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition; nor to prevent landscaping with plants, trees and shrubs.

SECTION 6. No building or structure within the Historic Nantucket District shall be razed without first obtaining a permit approved by the Historic District Commission, and said Commission shall be empowered to refuse such a permit for any building or structure of such architectural or historic interest, the removal of which in the opinion of said Commission would be detrimental to the public interest of the Town of Nantucket or the Village of Siasconset.

SECTION 7. The erection or display of an occupational or other sign exceeding two (2) feet in length and six (6) inches in width or the erection or display of more than one such sign, irrespective of size, on any lot, building or structure located within the Historic Nantucket District must be approved in advance by the Historic District Commission. Evidence of such approval shall be a certificate of appropriateness issued by said Commission.

SECTION 8. The Historic District Commission shall elect its Chairman and Secretary. The Commission shall meet within ten (10) days after notification by its secretary of the receipt of an application for a certificate of appropriateness or permit for removal and at such other times as the Commission may determine or upon call of the Chairman or of any two (2) members. It shall keep a permanent record of its resolutions, transactions and determinations and may make such rules and regulations consistent with this Act as may appear desirable and necessary. It may hold public or private hearings as it may deem advisable. It may incur

expenses necessary to the carrying on of its work within the amount of its annual appropriation. The Commission shall make and publish rules and regulations adopting or establishing guidelines for exterior architectural features and establishing procedures for the processing of applications and conduct of hearings. The Commission may establish such fees with respect to applications and hearing as it deems necessary and appropriate to defray its expenses.

SECTION 9. (a) It shall be the function and the duty of the Historic District Commission to pass upon the appropriateness of exterior architectural features of buildings and structures hereafter to be erected, reconstructed, altered or restored in the Historic Nantucket District wherever such exterior features are subject to view from a beach, public way, public park, public body of water, a travelled way, a street or way shown on a Land Court plan, or shown on a plan recorded in the Registry of Deeds, a proprietors road, a street or way shown on a plan approved and endorsed in accordance with the Subdivision Control Law. All plans, elevations and other information deemed necessary by the Commission to determine the appropriateness of the exterior features to be passed upon shall be made available to the Commission by the applicant. It shall also be the duty of the Commission to pass the removal of any building within said districts as set forth in section six and the erection or display of occupational or other signs as set forth under section seven.

(b) The Historic District Commission, in passing upon appropriateness of exterior architectural features in any case, shall keep in mind the purposes set forth in Section 2 and shall consider, among other things, the general design, arrangement, texture, material and color of the building or structure in question, the location on the lot and the relation of such factors to similar features of buildings and structures in the immediate surroundings and the position of such building or structure in relation to the street or public way and to other buildings and structures.

(c) The Historic District Commission shall not consider relative size of buildings in plan, interior arrangement or building features not subject to public view. The Commission shall not make any recommendations or requirements except for the purpose of preventing developments incongruous to the historic aspects of the surroundings and the Historic Nantucket District.

(d) In case of disapproval, the Commission shall state its reasons therefor in writing, and it may make recommendations to the applicant with respect to appropriateness of design, arrangement, texture, material, color and the like of the building or structure involved.

(e) Upon approval of the plans, the Commission shall cause a certificate of appropriateness, dated and signed by the Chairman, to be issued to the applicant or affixed to the plans.

(f) If the Commission shall fail to take final action in any case within sixty (60) days after receipt of any application for a certificate of appropriateness or a permit for removal, the case shall be deemed to be approved except where mutual agreement has been reached for an extension of the time limits.

(g) The Commission shall have, in addition to the powers, authority and duties granted it by this Act, such other ancillary, enforcement or investigative powers, authority and duties as may be delegated or assigned to it from time to time by vote of an Annual or Special Town Meeting of the Town of Nantucket.

SECTION 10. Any person who violates any of the provisions of this Act shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than ten dollars (\$10.) nor more than five hundred dollars (\$500.), which shall be forfeited to the use of the town. Each day that a violation continues to exist shall constitute a separate offense.

(a) It shall be a violation of this Act for any person to construct or alter a building or structure without having first obtained from the Commission a certificate of applicability or a certificate of nonapplicability; for any person to raze any building or structure without having first obtained from the commission a permit for such razing; for any person to construct or alter a building or structure in any way which is inconsistent with or contrary to the terms of the certificate of approval issued for such building or structure; or for any person to knowingly submit false, fraudulent or misleading information to the Commission in connection with any application.

SECTION 11. Appeals may be taken to the Board of Selectmen by any person aggrieved by the ruling of the Historic District Commission. The Board of Selectmen shall hear and act upon such appeals promptly, and the decision of the Board shall be as determined by a majority vote of the members of the Board. Such appeals shall be taken within ten (10) days of the filing by the Commission of its certificate of determination with the Clerk of the Town of Nantucket, and written notice of such appeal shall be given by the appealing party to the Commission at the time such appeal is taken.

SECTION 12. Any person or the Historic District Commission, aggrieved by a decision of the Board of Selectmen, may appeal to the Superior Court sitting in equity for the County of Nantucket, provided that such appeal is filed in said Court within fifteen (15) days after such decision is recorded. The appealing party or parties shall, at the time of filing such appeal, give notice thereof to all persons who were parties to the appeal to the Board of Selectmen, by causing to be delivered to such parties a copy of the complaint and written notice of the filing thereof. The Court shall hear all pertinent evidence and determine the facts and, upon the facts so determined, annul such decision if found to exceed the authority of such Board, or may remand the case for further action

by the Commission or make such other decree as justice and equity may require. The foregoing remedy shall be exclusive, but the parties shall have all rights of appeal and exception as in other equity cases.

Costs shall not be allowed against the Historic District Commission or the Board of Selectmen unless it shall appear to the Court that the Commission or the Board, in making the decision appealed from, acted with gross negligence, in bad faith or with malice.

Costs shall not be allowed against the party appealing from the decision of the Historic District Commission or the Board of Selectmen unless it shall appear to the Court that said appellant or appellants acted in bad faith or with malice in making the appeal to the Court.

SECTION 13. The Superior Court, sitting in equity for Nantucket County, shall have jurisdiction to enforce the provisions of this Act and the certificates, permits, determinations, rulings and regulations issued pursuant thereto and may, upon petition of the Commission, restrain by injunction violations thereof; and, without limitation, such court may order the removal of any building, structure or exterior architectural feature constructed in violation of this Act or the substantial restoration of any building, structure or exterior architectural feature altered or razed in violation of this Act and may issue such other orders for relief as may be equitable.

SECTION 14. In case any section, paragraph or part of this Act be for any reason declared invalid or held unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

SECTION 15. This Act shall take effect upon its acceptance by the voters of the Town of Nantucket at an Annual Town Meeting or any meeting duly called for the purpose.

February 27, 1990